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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

THE PATENT APPLICATION of:

Applicant : Richard Harris WILSON et al

Appln. No. : 07/852,390

Filed : March 16th, 1992

For : RECOMBINANT DNA SEQUENCES,
VECTORS CONTAINING THEM AND
METHOD FOR THE USE THEREOF

Atty. Dkt. : CARPR 0022C2

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RESPONSE TO
RESTRICTION
REQUIREMENT

June 10th, 1992

Honorable Commissioner of Patents and Trademarks
Washington, D.C. 20231

Sir:

Pursuant to 37 CFR 1.143, and in response to the Official Action of May 11th, 1992, Applicants provisionally elect Group I, containing Claims 39-47 and 50-60, with traverse. Reconsideration of the restriction requirement is respectfully requested.

In the restriction requirement, the Examiner states that Group I is drawn to DNA sequences, vectors and use of the vectors for selectable markers, whereas Group II, which comprises Claims 48 and 49, is drawn to probes and methods of hybridization. Applicants traverse the Examiner's restriction requirement, since proper restriction practice requires that there would be "a serious burden on the examiner if restriction is not required" (M.P.E.P. 802(2)), which Applicants respectfully submit is not the case in the present invention as claimed. Although the Examiner asserts different classifications for the claims of Groups I and II,

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apparently to support the contention that a serious burden exists, Applicants respectfully submit that the search of the recombinant DNA sequence of, for example, Claim 39, and the hybridization probe of, for example, Claim 48 would required virtually identical, if not absolutely identical, searches. Applicants respectfully submit that a proper search of Claim 48 would necessarily include a search of the recombinant DNA sequence of Claim 39 in order to determine anticipation and/or obviousness of Claim 48. For the same reason, Applicants respectfully submit that a proper search of, for example, claim 39 necessarily requires a search of the subject matter of, for example, Claim 48.

In the event that the Examiner's restriction requirement is made final, Applicants reserve the right to file divisional applications directed to the subject matter of Group II containing Claims 48 and 49.

Respectfully submitted,



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